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Customer No. 22,852

Attorney Docket No. 5725.0832-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Véronique FERRARI et al.) Group Art Unit: 1615
)
Application No.: 09/749,036) Examiner: S.L. HOWARD
)
Filed: December 28, 2000)
)
For: COMPOSITION COMPRISING AT)
LEAST ONE HETERO POLYMER)
AND AT LEAST ONE PASTY)
FATTY SUBSTANCE AND)
METHODS FOR USE)

Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In the Restriction Requirement mailed March 13, 2002, Applicants respectfully request reconsideration of this application in light of the following remarks. Applicants note that since April 13, 2002 was a Saturday, this response filed April 15, 2002, is timely. 35 U.S.C. §21(b).

In the Restriction Requirement, the Examiner has required restriction between the following groups of claims:

- Group I: Claims 1-91, 231-234, 243, 244, 249, 252, 254, 255, 260, 261, 264, 265, 268, 270-272, and 276-278, drawn to an anhydrous composition comprising at least one fatty phase, and
- Group II: Claims 92-230, 235-242, 245-248, 250, 251, 253, 256-259, 262, 263, 266, 267, 269, 273-275, and 279-

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287, drawn to a composition comprising at least one fatty phase.

Applicants respectfully traverse the restriction requirement. However, to be fully responsive to the restriction requirement, Applicants elect, with traverse, the invention of Group II, claims 92-230, 235-242, 245-248, 250, 251, 253, 256-259, 262, 263, 266, 267, 269, 273-275, and 279-287.

In the Restriction Requirement, the Examiner states that the requirement for restriction is proper because the inventions are distinct and unrelated "because an anhydrous composition comprising at least one fatty phase is different from a composition comprising at least one fatty phase." Restriction Requirement at page 2.

Applicants refer the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs the Examiner as follows:

If the search and examination of an entire application can be made without **serious burden**, the Office **must** examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. § 803 (emphasis added).

Here, the Examiner has not demonstrated that examining Groups I and II together will constitute a serious burden, despite the assertion that they are "mutually exclusive." Applicants respectfully submit that a search of Groups I and II would not be burdensome, as all of the claims recite a "composition comprising at least one liquid fatty phase which comprises: (i) at least one structuring polymer comprising: a polymer skeleton which comprises at least one hydrocarbon-based repeating unit comprising at least one hetero atom; and (ii) at least one pasty fatty substance." See, e.g., Claim 92.

Thus, the search and examination of Group I should fully encompass the search and examination for Group II. Accordingly, Applicants respectfully submit that the restriction requirement is in error.

In view of the foregoing remarks, Applicants respectfully request that the restriction requirement be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: April 15, 2002

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